

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBIN L. WHITE,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

CASE NO. C06-1476-JLR-MJB

REPORT & RECOMMENDATION

Petitioner is a state prisoner who has filed a *pro se* petition for a writ habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has also filed an application for leave to proceed *in forma pauperis*. (“IFP application”) (Dkt. #1). Respondent has not been served with a copy of the petition.

In screening the petition and IFP application, the court has become aware that petitioner currently has a personal restraint petition pending with the Washington Court of Appeals. *See White v. Washington*, Case No. 58790-1 (Personal restraint petition filed September 8, 2006). Thus, it appears that petitioner has failed to exhaust his state remedies, which is a prerequisite to the filing of a habeas petition. *See* 28 U.S.C. § 2254(b). In addition, a federal court should not entertain a collateral attack on a conviction while other remedies are pending because to do so would thwart judicial economy. *See United States v. Deeb*, 944 F.2d 545, 548 (9th Cir. 1991). Thus, the court concludes that the instant habeas petition is premature and should be dismissed without prejudice. A proposed Order accompanies this Report and Recommendation.

DATED this 23rd day of October, 2006.



MONICA J. BENTON
United States Magistrate Judge